

Message Text

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ACTION NEA-10

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SUBJ: FIRST APPALACHIAN CORP.

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SUMMARY. IN MEETING WITH EMBOFF, EL NASR COKE AND CHEMICAL COMPANY (CHEMICOKE) CHAIRMAN DENIED ANY "DISCRIMINATORY" TREATMENT OF FIRST APPALACHIAN AND ASSERTED, ON THE CONTRARY, THAT U.S. COMPANY HAD CONTINUALLY FAILED MEET ITS OBLIGATIONS TO EGYPTIANS. HE HAVE LENGTHY EXPLANATION, FROM CHEMICOKE POINT OF VIEW, OF COURSE OF DISPUTE. END SUMMARY.

1. IN MEETING WITH EMBOFF DEC. 11, SALAH FARID, CHAIRMAN OF GOE-OWNED EL NASR COKE AND CHEMICAL COMPANY (CHEMICOKE) GAVE LENGTHY ACCOUNT OF GENESIS AND DEVELOPMENT OF DISPUTE WITH FIRST APPALACHIAN, AS FOLLOWS:

2. AFTER WINNING CONTRACT TO SUPPLY APPROXIMATELY 110,000 TONS OF COKING COAL, FIRST APPALACHIAN DELIVERED TRIAL SHIPMENT OF 19,900 TONS IN APRIL 1976 FOR TESTING BY CHEMICOKE, AFTER COAL WAS FOUND SATISFACTORY, PARTIES AGREED THAT DELIVERY OF REMAINING COAL WOULD BE EFFECTED IN THREE SHIPMENTS, SCHEDULED TO BEGIN, ACCORDING TO FARID, IN EARLY JUNE. DURING JUNE AND JULY, FIRST APPALACHIAN FAILED TO MAKE A SINGLE DELIVERY, DESPITE TELEXES FROM CHEMICOKE ASKING WHERE COAL WAS AND DESPITE MESSAGES FROM BLACK SAYING THAT HE WOULD DELIVER. E.G., ACCORDING TO FARID, TELEX WAS RECEIVED FROM BLACK JUNE 12 SAYING HE WAS SENDING 30,000 TONS "WITHIN A WEEK"; ON JULY 19, AFTER
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HAVING FAILED TO DELIVER, HE PROPOSED A NEW SHIPPING SCHEDULE

WHICH HE AGAIN FAILED TO MEET.

2. FARID CLAIMS THAT QUESTION OF SHIP SIZE, ADVERTED TO BY BLACK A NUMBER OF TIMES, DID NOT ARISE UNTIL AUGUST 28 -- WHEN FIRST APPALACHIAN WAS, IN EGYPTIAN VIEW, ALREADY ALMOST THREE MONTHS BEHIND IN DELIVERIES. ON THAT DATE, CHEMICOKE WAS NOTIFIED BY BRITISH BROKER WITH WHICH IT HAD CONTRACT, THAT DELIVERY WAS BEING MADE IN SHIP ABOUT 700 FEET LONG. WHEN CHEMICOKE NOTIFIED ALEXANDRIA PORT AUTHORITIES, COMPANY LEARNED THAT PORT HAD LIMITATION OF 620 FEET ON LENGTH OF VESSELS OF THIS TYPE THAT COULD UNLOAD. ACCORDING FARID, CHEMICOKE HAD NEVER TAKEN DELIVERIES FROM SHIP OF SUCH LARGE SIZE AND WAS UNAWARE, UP TO THAT TIME, OF ANY LENGTH RESTRICTION, ALTHOUGH COMPANY WAS AWARE OF RESTRICTIONS ON DRAUGHT OF VESSEL.

3. UPON LEARNING OF LENGTH LIMITATION, FARID SAYS HE NOTIFIED BRITISH BROKER, AND GERMAN AND POLISH SUPPLIERS, AS WELL AS FIRST APPALACHIAN AND ASKED THAT CONTRACTS AND LETTERS OF CREDIT BE AMENDED TO INCLUDE LENGTH RESTRICTION. BRITISH BROKER AND GERMAN BROKER REFUSED TO AGREE, AT LEAST WITH RESPECT TO DELIVERIES FOR WHICH SHIPS OF LARGE SIZE HAD ALREADY BEEN CONTRACTED. FARID WAS THEREFORE FORCED TO SEEK, AND SUCCEEDED IN OBTAINING SPECIAL EXCEPTION FROM ALEXANDRIA PORT AUTHORITIES. POLES INDICATED THEIR SHIPS WERE OF SUCH SIZE AS NOT TO BE AFFECTED. APPALACHIAN, HOWEVER, (ACCORDING FARID) AGREED TO ACCEPT LENGTH RESTRICTIONS AND CORRESPONDING AMENDMENT OF L/C. IN SEPTEMBER, BLACK AGAIN PROPOSED SHIPPING SCHEDULE, WHICH CHEMICOKE ACCEPTED, BUT NO DELIVERY WAS MADE.

4. IN LATE OCTOBER, AFTER NOT COMMUNICATING WITH CHEMICOKE FOR SOME TIME, BLACK BEGAN SENDING "WAVE" OF TELEXES ACCUSING FARID AND EGYPTIANS OF "DISCRIMINATION" AND UNFAIR TREATMENT. BLACK SENT REPRESENTATIVE TO CAIRO IN NOVEMBER TO SEEK EXTENSION OF LETTER OF CREDIT, BUT CHEMICOKE COULD NOT EXTEND BEYOND APPROX. NOVEMBER 24 BECAUSE ITS ACCESS TO FOREIGN EXCHANGE EXPIRED ON THAT DATE. UNDER CIRCUMSTANCES, FARID SAID HE DID NOT INTEND REQUEST NEW FOREIGN EXCHANGE ALLOCATION IN ORDER TO DO BUSINESS WITH COMPANY WHICH HAD FAILED TO PERFORM. FARID THEREFORE INSTITUTED PROCEEDINGS TO DRAW DOWN ON BOND, WHICH FIRST APPALACHIAN LIMITED OFFICIAL USE

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HAD POSTED.

7. RE ALLEGATION BY BLACK THAT CHEMICOKE BOUGHT COAL FROM OTHER SUPPLIERS AT HIGHER PRICES, FARID SAID COMPANY HAD NO CHOICE BUT TO GET COAL WHERE IT COULD FIND IT WHEN BLACK FAILED TO DELIVER. COKING FURNACES REQUIRE CONTINUOUS FUELING. BLACK HAD BEEN LOW BIDDER, SO ALL OTHER SOURCES WERE NECESSARILY HIGHER IN COST.

8. IT DOES NOT APPEAR AT THIS POINT THAT EMBASSY CAN TAKE ANY
FURTHER ACTION IN SITUATION WHERE SPECIFIC RIGHTS AND WRONGS OF
COMPLEX BUSINESS DISPUTE NOT EASY TO SORT OUT. DEPARTMENT
MAY, HOWEVER, FIND FARID'S ACCOUNT OF MATTER USEFUL IN ANY FURTHER
DISCUSSION WITH BLACK.
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